

energy or electric power to be delivered and used in their territory without the consent of The Public Service Commission first had and obtained would be prejudicial to their rights and detrimental to the service being furnished by them. These protests have been satisfied by stipulation filed of record.

Philadelphia Electric Company and Philadelphia Electric Power Company were represented at the hearing by counsel. A stipulation filed by the applicant company satisfied said companies and no protest or objection was entered of record by them.

Certain citizens of Lancaster and York counties residing in the vicinity of the Safe Harbor project appeared at the first hearing and informally stated that their interest in the matter related to the construction of the dam in a manner to provide a roadway for vehicular and pedestrian traffic across the Susquehanna River forming a connecting link between highways on the York and Lancaster sides of the river to be constructed at some future time. The examiner conducting the hearing informed these gentlemen that in his opinion the Commission had no jurisdiction in the present proceeding to compel the applicant corporation to provide a roadway or bridge across the river, but would use its good offices in the matter of such roadway. Conferences were held with representatives of the company who took the position that construction of the dam with a highway crossing was not necessary at this time; that the cost of providing the roadway on the dam—approximately \$1,000,000, would not be justified, but that the company was willing to grant to responsible parties a right of way across the dam for the construction of a bridge or highway crossing at any time in the future.

At the second hearing the citizens of York and Lancaster counties were represented by counsel. No formal protest was filed but a motion however was made to call witnesses to prove the benefits and advantages to the public if a highway road was provided on the dam. The examiner

ruled that it would serve no [23310] (page 3) good purpose to extend the record to include testimony on a matter which was not subject to the jurisdiction on the Commission, but granted the counsel for the citizens the right to file brief on the jurisdictional question with the understanding that if the Commission determined it had jurisdiction to grant further hearing. The ruling of the examiner is sustained. The Commission has carefully examined briefs filed on the question and is of the opinion that the general provisions of the Public Service Company Law referred to by counsel are not controlling and without a definite and specific provision conferring such jurisdiction it is without authority.

The Legislature of Pennsylvania has conferred upon the Water Supply Commission (now Water and Power Resources Board) authority to regulate the construction of dams and the development of the water power resources of the state. Similar authority and jurisdiction is conferred by federal statute upon the Federal Power Commission. This jurisdictional question has been decided by the Supreme Court of Pennsylvania in case Pa. Power Co., Appellant, v. Public Service Commission, 261 Pa. 211 "It (Public Service Commission) is not invested with authority to regulate the erection of dams or the development of the water power resources of the State. That is a subject over which the Water Supply Commission has jurisdiction.

* * * The authority of the Water Supply Commission to impose regulations and conditions to be observed by a corporation proposing to develop the water power of a stream is broad as shown by the language of the statute.

* * * It has undoubted authority to attach any of the conditions necessary to carry out the purposes of the legislation on the subject with a view to the protection of the rights of the public and of individuals or companies having vested interests."

It appears from the record that the Safe Harbor Water Power Corporation will construct a solid concrete gravity type dam crossing the Susquehanna River at a

point about one-quarter of a mile upstream from the mouth of the Conestoga Creek, about eight miles above Holtwood, Pennsylvania, and about 17 miles above the Pennsylvania-Maryland State Line, with total length of 3635 feet of which 1818 feet will be bulk-head or non-flow sections and 1817 feet with be stowaway sections; the reservoir formed by the dam will extend upstream for about ten miles and that its widest point will be one and three-quarter miles wide; and a power house located on the Lancaster County side of the river with total length when completed of 1048 feet and width of 157 feet, with initial installation of six main generating units having a total generator capacity of 168,000 kilowatts.

The estimated cost of the project is \$30,000,000, which will be financed by the sale of the company's stock or other [23311] (page 4) securities. The corporate and financial plans including preliminary costs of the project have been examined by the Commission's technical staff and in general conform to the governing ruling and policy of the Commission. The project is feasible and will conserve the natural resources of the state and supplement the present output of the hydro-electric plant of the Pennsylvania Water and Power Company, the present peak demand of which is more than two and one-half times the average high-flow capacity of the plant.

The Commission finds and determines that the approval of the construction, subject to the stipulations filed of record, is necessary and proper for the service, accommodation and convenience of the public.

A certificate will issue accordingly.

THE PUBLIC SERVICE COMMISSION
OF THE
COMMONWEALTH OF PENNSYLVANIA

(Signed) S. Ray Shelby
Acting Chairman.

[23312] (page 5)**Application Docket No. 21579 (Folder No. 2)**

In re: Application of SAFE HARBOR WATER POWER CORPORATION, for approval of the beginning of the exercise of the rights, power or privilege of the supply, storage or transportation of water and water power for commercial and manufacturing purposes, in the Township of Manor, Lancaster County, and the Township of Chanceford, York County.

ORDER

This matter being before The Public Service Commission, upon petition and protests on file, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and the Commission having on the date hereof made and filed of record a report containing its findings of fact and conclusions thereon, which said report is hereby approved and made a part hereof;

Now, to-wit, March 31, 1930, It Is ORDERED: That a certificate of public convenience issue evidencing the Commission's approval of the beginning of the exercise by the Safe Harbor Water Power Corporation of its rights, powers and privileges subject to the following conditions:

FIRST: That the proposed Safe Harbor Hydro Electric Project shall be so constructed and so operated that it shall not unreasonably interfere with the use of the waters of the Susquehanna River by the Project known as the "Conowingo Project", heretofore approved by this Commission in Application Docket Nos. 12401 to 12405 (both inclusive), year 1925, to the extent that the use of the said waters shall be

reasonably necessary for the purposes of said "Conowingo Project".

SECOND: That the Safe Harbor Water Power Corporation shall not, without the approval of The Public Service Commission hereafter first obtained, [23313] (page 6) sell or dispose of the electric energy or power to be generated at its plant, at Safe Harbor, Lancaster County, Pennsylvania, to any customer other than the Consolidated Gas Electric Light and Power Company, of Baltimore, Maryland, and the Pennsylvania Water and Power Company, of Holtwood, Pennsylvania, and to the latter Company only for re-sale to present customers of said Pennsylvania Water and Power Company, viz: Edison Electric Company, of Lancaster, Pennsylvania; the Chester Valley Electric Company, of Coatesville, Pennsylvania; Edison Light and Power Company of York, Pennsylvania; and the Consolidated Gas Electric Light and Power Company of Baltimore, Maryland.

THE PUBLIC SERVICE COMMISSION
OF THE
COMMONWEALTH OF PENNSYLVANIA

(Signed) S. Ray Shelby
Acting Chairman.

Attest:

Jno. G. Hopwood—
Secretary

[23314] (page 7)

EXHIBIT "C"

SAFE HARBOR WATER POWER CORPORATION

Balance Sheet as at December 31, 1931.

ASSETS

Cash in Banks and on Deposit	\$ 945,453.94
Accounts and Notes Receivable	128,640.28
Investment Securities	9,100.00
Construction Work in Progress	23,105,868.32
Unamortized Debt Discount and Expense	1,506,927.64
Prepaid Charges	8,752.39
	<hr/>
	\$25,704,742.57

LIABILITIES

First Mortgage Sinking Fund Gold Bonds	
4½% Series Due 1979	21,000,000.00
Accounts Payable	662,014.77
Accrued Liabilities	91,727.80
*Capital Stock	3,951,000.00
Issued— 87,532 Shares Class "A"	
Non-Voting	
175,068 Shares Class "B"	
Voting	
	<hr/>
	\$25,704,742.57

*Pennsylvania Water & Power Company and Consolidated Gas Electric Light and Power Company of Baltimore are obligated to acquire upon call by the Safe Harbor Corporation, but in no event later than December 31, 1933, capital stock of Safe Harbor Water Power Corporation amounting to \$5,049,000, in addition to their investment of \$3,951,000, as of December 31, 1931.

[23315] (page 1)

THE PUBLIC SERVICE COMMISSION
OF THE
COMMONWEALTH OF PENNSYLVANIA

Application Docket No. 21579, (Folder No. 2)

In re: Application of SAFE HARBOR WATER POWER CORPORATION—For modification of the Certificate of Public Convenience approving the beginning of the exercise of the rights, power or privilege of the supply, storage or transportation of water and water power for commercial and manufacturing purposes in Manor Township, Lancaster County, and Chanceford Township, York County, by amending the restriction which limits service to certain customers named therein.

REPORT AND ORDER OF THE COMMISSION

BY THE COMMISSION:

This is an application for modification of one of two conditions in a certificate of public convenience heretofore issued to the Safe Harbor Water Power Corporation, hereinafter referred to as Safe Harbor Company, a domestic corporation authorized by its charter to supply, store, and transport water and water power for commercial and manufacturing purposes in Manor Township, Lancaster County, and Chanceford Township, York County, in this Commonwealth.

In this certificate granted by this Commission, approving applicant's exercise of its charter rights, there were inserted two conditions. The first related to the method of construction of applicant's hydro-electric project by means

of which its electric power was to be generated. With this condition we are not here concerned. The second condition restricted the sale or disposal of hydro-electric power to "the Consolidated Gas Electric Light and Power Company, of Baltimore, Maryland, and the Pennsylvania Water and Power Company, of Holtwood, Pennsylvania, and to the latter company only for resale to present customers of said Pennsylvania Water and Power Company, viz: Edison Electric Company of Lancaster, Pennsylvania; Chester Valley Electric Company of Coatesville, Pennsylvania; Edison Light and Power Company of York, Pennsylvania; and the Consolidated Gas Electric Light and Power Company of Baltimore, Maryland."

In the instant proceeding applicant asks this Commission so to modify or enlarge the latter condition as to permit it to sell or dispose of its power directly, not only to the companies it is now serving indirectly through Pennsylvania Water and [23316] (page 2) Power Company of Holtwood, Pennsylvania (hereinafter referred to as Holtwood Company), but also to three additional companies not now served either directly or indirectly by it, viz: Metropolitan Edison Company of York, Pennsylvania, The Pennsylvania Railroad Company, and the Philadelphia Electric Company. Applicant also asks the right to sell or dispose of power to Holtwood Company for resale to all companies named in the existing certificate or included in the proposed modification, but to none not so named or included.

Formal protests were filed by the Pennsylvania Power and Light Company, and the Commission has permitted the United Mine Workers of America, the Chambers of Commerce of Pottsville, Hazleton, Shenandoah, Mt. Carmel, Wilkes-Barre and Scranton, and various coal operators and municipalities in the anthracite district of the Commonwealth to intervene in protest. Hearings have been held, briefs filed, oral argument presented, and the matters are now before us for disposition.

The protests so far as they relate to prospective consumers other than the Metropolitan Edison Company, The Pennsylvania Railroad Company and the Philadelphia Electric Company, are based on the contention that the applicant has failed to sustain the burden of proof that approval is necessary or proper in the public interest. The uncontradicted testimony in support of the application is to the effect that contractual relationships and inter-company accounting will be simplified if direct sale by Safe Harbor Company is permitted that it is desirable in the public interest for both that company and Holtwood Company, a nearby electric power producer, to be in a position to make joint contracts with and supplement service to the permitted consumers. In the absence of any showing that approval of direct sale of power by Safe Harbor Company to the said companies now served by Holtwood Company would adversely affect the public interest, the Commission finds and determines that applicant has met the burden of proof resting upon it, and that approval of such direct sale is necessary or proper for the service, accommodation and [23317] (page 3) convenience of the public.

As to the proposed sale of Safe Harbor power direct to Metropolitan Edison Company, the record shows that the loss by reason of Safe Harbor's inability to make such sale amounts to \$1,900 per week, due to (1) reduction in amount of energy sold and (2) additional and unnecessary steam generation at Baltimore. There is no testimony or indication that approval of this phase of the application will injure protestant, Pennsylvania Power and Light Company. The Commission therefore finds that it is in the public interest that the applicant be permitted to sell power directly to Metropolitan Edison Company.

With reference to the Philadelphia Electric Company, the record shows that the sale of Safe Harbor power to that company will permit more complete utilization of the water power of the Susquehanna River, prevent the waste of off-peak hydro energy during periods of substantial river flow,

and tend to reduce the overall cost of power supply over a large territory. The Commission, therefore, finds that approval of direct sale of Safe Harbor power to Philadelphia Electric Company is in the public interest.

The major issue in the present proceeding is raised by the application for the right to sell power to The Pennsylvania Railroad Company, a contract for such sale having been entered into between the applicant and the railroad, subject to Commission approval. Much testimony of an involved and technical nature has been presented upon this issue, and the Commission has had the benefit of briefs and oral arguments on both sides.

The majority of protestants' contentions may be disposed of without extended discussion. The argument that applicant has shown bad faith and has violated the terms of stipulations and contracts by asking for these additional rights is unconvincing in view of the fact that the stipulation upon which the contention is based [23318] (page 4) included the condition "without the approval of The Public Service Commission hereafter first obtained". The present application clearly fulfills this condition.

It is further contended that Commission approval would authorize acts ultra vires Safe Harbor Company, since that corporation's charter grants the right to dispose of electric power developed "by means of water power" only, and the proposed operations would involve the sale of steam power produced in Baltimore. A subordinate point is made to the effect that the sale by Safe Harbor Company of the power generated in Baltimore will mean that a foreign corporation is doing business in Pennsylvania without authority from this Commonwealth. These two arguments are answered by the terms of the application. Commission approval of the application as filed would authorize only the sale of power developed "by means of water power", a right specified in applicant's charter. The circle of applicant's consumers would be enlarged but the character of applicant's production of

power and of the power sold would remain unaffected. Similarly, the Commission does not have before it an application for the right to sell electric power generated by steam. Issuance of the certificate prayed for will not confer upon applicant corporation the right to sell steam generated power, nor would the refusal of the certificate operate in any way to prevent the sale of such power by a foreign corporation. The present applicant is a domestic corporation asking the right to expand its business in Pennsylvania, and the question of whether or not a foreign corporation is doing or intends to do business within this State is not, in our opinion, material in this proceeding.

It is sufficient to say, in answer to protestant's argument that this application involves a new class of service by Safe Harbor Company, that if approval of the proposed service is necessary or proper in the public interest the mere novelty of such service cannot avail to prevent favorable action by the Commission.

The contention that approval would reduce the possible consumption of anthracite coal by Pennsylvania Power and Light Company is entitled to great weight [23319] (page 5) and careful consideration. But it loses much of its force in face of the fact that the two major parties in this case are not the sole possible sources of electrification power. Upon refusal of this application the railroad might decide to purchase power from the Philadelphia Electric Company, the Metropolitan Edison Company (which has a distribution point at Middletown, Dauphin County, not far from Safe Harbor, Lancaster County), or from some source outside the State. Even if the Commission were convinced that a negative decision in this case would secure the electrification contract for protestant, and that protestant would generate electric power by steam—which it is in no way bound to do,—with a consequent increased consumption of anthracite coal, this conviction could not, of itself, determine the ultimate decision. The Commission in this case, as in all cases, must balance the interest of various

classes and portions of the public and make that finding which, in comprehensive contemplation of all of the known facts, will confer the greatest benefit upon the greatest number of citizens of this Commonwealth.

The protest of the anthracite mining interests awakens our deep concern. However, the use of electric energy in the place of steam energy in railroad operation is a development of rather recent years. Furthermore, the territory here involved is relatively far removed from the anthracite mines; indeed, it is at the very door of the applicant, a great Pennsylvania enterprise harnessing the Susquehanna River and more directly concerned with electric power production and use than is the mining industry. The Commission could not, even by refusing this application, assure increased business to coal producers or increased consumption of their product. Therefore, although we are fully sensible and appreciative of the unfortunate economic situation which confronts the coal industry in our Commonwealth today, we cannot give controlling weight to this protest.

[23320] (page 6)

The issues of this proceeding may be stated in the form of two questions, viz: (1) Is this application so premature as to prevent proper consideration and decision at this time; and (2) In view of the fact that The Pennsylvania Power and Light Company is at present authorized to furnish and is furnishing electric power to consumers in the territory involved, should Safe Harbor Company be granted the right to sell power to The Pennsylvania Railroad Company in the same territory?

With reference to the first question, the record shows that the parties themselves have for three years been discussing the problem of supply of power in Lancaster County for railroad electrification; that the electrification of the Washington-Perryville Line of the railroad will be inaugurated in the near future; that upon its completion,

Philadelphia-Harrisburg electrification will be the next project to be consummated; and that the present design, location, and character of transmission lines and equipment, and the construction of a substation and a cable tunnel at Safe Harbor depend upon the prospect of the supply of power to the railroad company. The record is replete with references to conferences between the parties upon the subject matter of this case, and it is clear that much time and thought have been expended upon the problems involved and their solution. The Commission, in view of the facts appearing in a very voluminous and carefully developed record, does not feel that the information now before it is inadequate, nor is it persuaded that lapse of time will substantially alter the principles and conditions upon which its decision must be based.

The great bulk of the testimony was directed to the second question. The Pennsylvania Power & Light Company, hereafter referred to as protestant company, stated that it could and would render to The Pennsylvania Railroad Company the same service at the same place and at the same rate as provided by the contract with Safe Harbor Company. In support of this statement, plans were outlined for the construction of a new steam generating plant located near Sunbury and for a transmission line from that plant to Manor Township, Lancaster County,—some seventy miles away. The Sunbury plant and the transmission line therefrom are the backbone of the plan, although some additional power [23321]. (page 7) would be secured from existing generating plants. Certain construction work and installations at Safe Harbor would be necessary to enable applicant to fulfill the terms of the railroad contract, but it is clear from the record that such construction and installations will be much less extensive and less costly than those which protestant company would provide to render the same service.

Thus the issue is clearly presented whether protestant company is capable of rendering the same service at the

same rates. It is undisputed that the Safe Harbor generating plant is located at approximately the load center of the Pennsylvania's electrification. It would, therefore, seem that more reliable and efficient service could be furnished from that plant than by means of a system involving long distance transmission lines. Protestants did not deny that the Safe Harbor plant was in a very advantageous location and it appears that if protestant company were to supply the railroad load it is entirely possible that it would contract with the Safe Harbor Company for some of its power. Apparently protestant company is willing to have the Safe Harbor Company supply power to the railroad through it and for its account. It is impossible from examination of the record to say definitely that protestant company rather than the Metropolitan Edison Company or the Philadelphia Electric Company will secure the railroad business if this application is refused; or that if it does get the business, supply by it of electrification power purchased from the applicant will not be the ultimate result; or even that the railroad might not generate its own electric energy. Although it is the general policy of the Commission to prevent the establishment of competitive services and to protect public utilities which have developed and served the territory in which they operate, this general policy cannot and should not be applied where the proposed service is necessary in addition to existing service and the applicant company is better able to meet a specific need; especially when the presently effective certificate was granted with no thought that the large new railroad business would develop in the territory.

The fact that The Pennsylvania Railroad Company has chosen the applicant as its most available source of supply may be taken as some indication that protestant [23322] (page 8) company's service would not be equally efficient. The railroad in this instance will be by far the largest consumer of electricity in Manor Township, and its convenience and interest should govern, provided the consuming

public in general is not injured or inconvenienced. Although no utility can, by entering into a contract, compel Commission approval of operation under such contract, nevertheless the Commission in the present case must give some weight to the conclusion reached by The Pennsylvania Railroad Company after a detailed investigation and a comprehensive survey of the entire situation.

After careful consideration of the facts of record and the arguments presented, The Commission is of opinion and finds that approval of this application is necessary or proper for the service, accommodation and convenience of the public: THEREFORE,

NOW, to wit, January 10, 1933, IT IS ORDERED: That the second condition in the certificate of public convenience heretofore granted to the applicant under date of March 31, 1930, be and is hereby modified to read as follows: That the Safe Harbor Water Power Corporation shall not, without the approval of The Public Service Commission hereafter first obtained, sell or dispose of the electric energy or power to be generated at its plant at Safe Harbor, Lancaster County, Pennsylvania, to any customer other than: (1) Consolidated Gas Electric Light and Power Company of Baltimore, Maryland; (2) Pennsylvania Power & Light Company; (3) The Pennsylvania Railroad Company; (4) Chester Valley Electric Company of Coatesville, Pennsylvania; (5) Edison Light and Power Company of York, Pennsylvania; (6) Metropolitan Edison Company; (7) Philadelphia Electric Company; and (8) Pennsylvania Water & Power Company of Holtwood, Pennsylvania, and to the latter company only for resale to the other companies enumerated herein.

THE PUBLIC SERVICE COMMISSION
OF THE
COMMONWEALTH OF PENNSYLVANIA

(Signed) Clyde L. King

Chairman

Attest:

Louis Tevell

Secretary

**(Seal of The Public Service Commission
of the Commonwealth of Pennsylvania)**

EXHIBIT No. 164.

[23323]

July 19, 1932

Memorandum to Messrs. Wm. Schmidt, Jr.
James L. Bintoul:

Re: KWH. Accounting after July 1, 1932:

. . .

[23325] (page 3)

. . .

Net daily backfeed by Baltimore Company to Holtwood Company, which is to be billed at cost plus 10%, will be based on the in and out readings at Highlandtown, Pratt Street, Westport, Riverside and Perryville combined.

. . .

[23326] (page 4)

OPERATING COMMITTEE

(s) F. E. Ricketts
F. E. Ricketts

(s) R. L. Thomas
R. L. Thomas

FER
RLT
/MS.

**ILLUSTRATIONS OF DIFFERENT METHODS OF TREATING DEPRECIATION
WITHIN THE RATE MAKING FORMULA**

	Undepreciated Rate Base		Depreciated Rate Base	
	Case 1	Case 2	Case 3	Case 4
1. Utility plant	\$5,300,000	\$5,300,000	\$5,300,000	\$5,300,000
2. Depreciation reserve	700,000	700,000	700,000	700,000
3. Deduction for depreciation			269,000	700,000
4. Rate base	5,300,000	5,300,000	5,031,000	4,600,000
5. Fair rate of return	6.5	6.5	6.5	6.5
6. Return allowed	\$ 344,500	344,500	327,000	299,000
7. <i>Income Statement</i>				
8. Operating revenues	1,034,568	1,000,000	1,034,568	1,000,000
9. Operating revenue deductions:				
10. Operating expenses	450,000	450,000	450,000	450,000
11. Depreciation expense	88,500	60,500	106,000	106,000
12. Taxes	151,568	145,000	151,568	145,000
13. Total operating revenue deductions	690,068	655,500	707,568	701,000
14. Utility operating income (return allowed)	344,500	344,500	327,000	299,000
15. Other income	26,000	26,000	26,000	26,000
16. Gross income	370,500	370,500	353,000	325,000
17. Income deductions:				
18. Interest on long term debt	105,000	105,000	105,000	105,000
19. Other income deductions (net)	19,000	19,000	19,000	19,000
20. Deduction representing credit to consumers	17,500	45,500		
21. Total income deductions	141,500	169,500	124,000	124,000
22. Net income	\$ 229,000	\$ 201,000	\$ 229,000	\$ 201,000

Note:

The data used for these illustrations correspond generally to the operating ratios, the utility plant per dollar of revenue and the ratio of depreciation reserve to total plant shown by the Summary Section of Statistics of Electric Utilities in the United States, Federal Power Commission, 1939.

Case 1 represents the use of an undepreciated rate base and a credit to consumers on the balance in the depreciation reserve at a rate corresponding to a risk free rate of interest (assumed here to be 2.5 per cent).

Case 2 represents the use of an undepreciated rate base and a credit to consumers on the balance in the depreciation reserve at a rate equal to the fair rate of return (assumed here to be 6.5 per cent).

Case 3 represents the use of a depreciated rate base determined by deducting from total utility plant 5/13 of the balance in the depreciation reserve.

Case 4 represents the use of a depreciated rate base determined by deducting the balance in the depreciation reserve from total utility plant.

Exhibit No. 165
EXHIBIT No. 165.

[23327]

3819

EXHIBIT No. 166.

[23328]

COMPARATIVE FLUCTUATIONS OF THE TWO LOWEST AND THE TWO HIGHEST EARNINGS-PRICE RATIOS INCLUDED IN THE GROUP OF ELEVEN, TOGETHER WITH THE PENN WATER EARNINGS-PRICE RATIOS, WITHIN PHASES OF CYCLES

	Aug. 1929	June 1932	Aug. 1936	Mar. 1938	July 1939	Apr. 1942	Jan. 1946
Average earnings— price ratios:							
Two lowest in group of eleven (a)	1.74	7.66	4.52	5.78	4.98	7.79	4.77
Two highest in group of eleven (b)	3.02	11.31	5.70	10.50	7.82	14.26	5.08
Penn Water	3.91	13.07	4.98	8.35	6.57	11.94	6.28
Change (increase or decrease) from each preceding date:							
Two lowest in group of eleven	—	5.92	3.14(d)	1.26	.80(d)	2.81	3.02(d)
Two highest in group of eleven	—	8.29	5.61(d)	4.80	2.68(d)	6.44	9.18(d)
Penn Water	—	9.16	8.09(d)	3.37	1.78(d)	5.37	5.66(d)
Percent change (in- crease or decrease) from each preceding date:							
Two lowest in group of eleven	—	340	41(d)	28	14(d)	56	39(d)
Two highest in group of eleven	—	275	50(d)	84	26(d)	82	64(d)
Penn Water	—	234	62(d)	68	21(d)	82	47(d)

(a) Hartford Electric and Connecticut Power, the two lowest earnings-price ratios among the eleven for the months of June, 1932, March, 1938 and April, 1942.

(b) Consolidated Edison and Pacific Gas & Electric, the two highest earnings-price ratios among the eleven for the months of June, 1932, March, 1938 and April, 1942.

(d) Decrease.

EXHIBIT No. 167.

[23329]

**CHANGES IN EARNINGS-PRICE RATIOS FOR THE PENN WATER
COMMON STOCK AND FOR THE MEDIAL FOUR OF SIX
COMMON STOCKS TO REFLECT EARNINGS DATA BECOM-
ING AVAILABLE AFTER THE PREPARATION OF
EXHIBIT 29.**

Period	Penn Water		Mean of Medial Four of Six	
	Per Sch. 1	As Revised	Per Sch. 3	As Revised
Sept., 1944	8.64	8.64	6.47	6.47
Oct.	9.28	9.28	6.40	6.43
Nov.	9.06	9.09	6.29	6.38
Dec.	8.66	8.68	6.29	6.41
Jan., 1945	8.65	8.70	6.14	6.29
Feb.	7.95	8.01	6.04	6.12
Mar.	7.94	8.00	5.97	6.09
Apr.	7.51	7.59	5.90	5.92
May	7.30	7.40	5.66	5.62
June	7.11	7.21	5.54	5.47
July	7.15	7.27	5.59	5.49
Aug.	7.10	7.22	5.67	5.56
Sept.	6.72	6.85	5.55	5.44
Oct.	6.41	6.53	5.30	5.31
Nov.	6.24	6.36	5.16	5.30
Dec.	6.38	6.50	5.22	5.38

EXHIBIT No. 169.

[23331]

January 31st, 1907.

To

The Auditor General of Pennsylvania.

Dear Sir:—

In explanation of the report of capital stock of McCall Ferry Power Company submitted herewith and of the omission of any certificate of valuation, the undersigned, Vice-President and Treasurer, respectively, of said Company, beg to state as follows:

It seems to them impossible to estimate and appraise the capital stock of said Company for purposes of taxation at the present time, as it existed between the 1st and 15th days of November A. D. 1906. In the first place, the stock did not have, at that time, nor has it had since, any market value, there having been no sales thereof, according to our information and belief. No price or value is "indicated or measured by net earnings or by the amount of profits made either declared in dividends or carried into surplus or sinking fund", because there have been no profits of any sort. On the other hand, if the stock were valued by the mere intrinsic value of the tangible property and assets which it represents, that valuation might be too low. This property and assets, at the time under consideration, consisted chiefly of a partially constructed dam and power house, real estate and flowage rights affecting real estate, if the latter may be called tangible property. The Company is engaged in constructing a dam in the Susquehanna River to be used in the development of water power for the manufacture of electricity for sale and it has acquired properties for this purpose. When its dam, power house, transmitting lines, &c. are completed and in operation, and if it shall find customers for its products, it may be demonstrated that its property and good will, when so used and availed of are

such as to make its capital stock of very considerable value. At present it has, of course, no good will nor has it any special franchises or privileges.

In view of the foregoing, the undersigned have found themselves entirely unable to make any estimate and appraisal of the capital stock of said Company for purposes of taxation at the present time.

Yours respectfully,

(S.) J. W. Kirkland
Vice-President.

(S.) Wm. H. Barnum
Treasurer.

3824

Exhibit No. 170

EXHIBIT No. 170.

• [23332]

MC CALL FERRY POWER COMPANY
Sixty Wall Street
New York

January 19, 1906.

Boyd Ehle, Esq.,
McCall Ferry, Penna.

Dear Ehle:—

I am enclosing a form of stock deposit agreement for 100 shares of the common stock of this Company, which I am putting in your name to give you an additional interest in the Company. I also enclose a similar agreement for Anderson for 50 shares. Will you both sign these at the places indicated, and return them to Messrs. Harvey Fisk and Sons, who will return to you copies of the agreement with their signature and that of the Voting Committee; these signed agreements will be your evidence of title to the stock, and the stock certificates themselves will be delivered when the Voting Committee expires. Will you explain this to Anderson, and tell him that I hope the stock before long will be worth something?

Yours very sincerely,

(S.) Cary T. Hutchinson.

Enc 2

EXHIBIT No. 171.

[23333]

(Copied from General file 40B)

EXTRACT OF THE TESTIMONY OF J. H. HARLOW IN THE CASE
OF SUSQUEHANNA POWER COMPANY vs THE PROPRIETORS
OF THE SUSQUEHANNA CANAL IN THE CIRCUIT COURT FOR
CECIL COUNTY, JANUARY 28TH, 1907.

(Page 99)

Q. Mr. Harlow, you have been asked as to the value of these bonds and stock that you took from the McCall's Ferry Company and I think you said you had no desire to sell them; that you were willing to wait and see what their value would be; you do not mean to say that there is a value of 90 on the bonds now?

A. The reason that I said I was willing to hold on to mine is because I believe they are going to be a good thing; they are paying interest on them now so I think I can hold them.

Q. Not out of earnings of course?

A. No, sir; not out of earnings.

Q. You don't mean to say there is any market for that stock at ten cents on the dollar?

A. No, sir; I never heard of it.

MR. WILLIS: There has been none of it put on the market?

WITNESS: No, sir; it has not any market value yet.

THE COURT: How are these bonds bearing interest?

MR. WILLIAMS: Out of money provided until operations begin.

WITNESS: There have been no bonds issued except to Mr. McGaw and myself.

EXHIBIT No. 172.

[23334]

(Copied from General file 40A)

EXTRACT OF THE TESTIMONY OF JAMES H. HARLOW IN THE
CASE OF SUSQUEHANNA POWER COMPANY VS. PROPRIETORS
SUSQUEHANNA CANAL, CONDEMNATION PROCEEDINGS IN
CECIL COUNTY, SEPT. 4TH 1906. PAGES 39 - 40.

Q. Now Mr. Harlow will you please tell the jury what in your judgment is the present value of the first mortgage bonds of the McCall's Ferry Power Company; or I had better say the value at the time you took them a year ago?

A. I was told by the financial agent—

Q. Financial agent for whom?

A. For what they now call the McCall's Ferry Power Co.; a man by the name of Brown connected with Harvey, Fiske & Co., he said there had been 20% paid in; I presume under the terms of the underwriting there had been another 20% paid in and perhaps a third 20%.

Q. I am asking you what was their value when you took them?

A. When we bought them about 20 cents on the dollar; when we sold the properties, I mean.

Q. What in your judgment then apart from the actual cash that was paid in was the then value of those bonds?

A. \$50,000.

Q. And the value of the stock?

A. It was practically nothing; you might call it anything you like, it is common stock and maybe a long time before it has any value.

EXHIBIT No. 173.

[23335]

(Copied from McCall Ferry Power Co file #112)

The only water-power on the Atlantic Seaboard between New York and Washington is on the Susquehanna River. It is now proposed to develop about 60,000 horse-power at McCall's Ferry on the Susquehanna, about forty miles distant from Baltimore, Harrisburg, Reading and Wilmington; fifty miles from Chester, and sixty-five miles from Philadelphia. This means that the Power Company will have 50,000 horse-power to sell. There is no difficulty in carrying the power as far as Philadelphia or further.

Mr. George S. Morrison, whom we knew very well for many years, was the first engineer to investigate this project thoroughly, to make plans for the dam, etc. Since his death, Mr. William Barclay Parsons, who laid out the subway in New York, who was the engineer of the Rapid Transit Commission, and who is now consulting engineer of the Interborough Rapid Transit Company, has taken up the work left by Mr. Morrison. In General, it is sufficient to say that the engineers report that there is no difficulty in building the dam, and that in every way the project is feasible.

In the territory tributary to this development there are at present more than 500,000 steam horse-power in use. There is, in the opinion of the engineers, and in the opinion of other experts whom we have consulted, no doubt of the ability of the Company to sell this power at profitable prices.

We have gone over the figures given us by the Power Company very carefully, and have consulted our experts here in regard to them. The engineers of the Company, including Mr. Parsons, estimate the cost of the development at \$7,200,000. In this is included a considerable sum for contingencies. We, however, are inclined to increase

this sum. An outside figure for the total cost, including contingencies, engineering, and everything else, seems to us \$7,843,000.

The estimated income, is figured by the engineers of the Company and by our experts at practically the same figure, viz., \$900,000 net. This will be sufficient to pay 5 per cent. interest on the bonds issued, depreciation, 5 per cent. on the preferred stock and something on the common.

The net income, it is believed, may be considerably increased by the sale of surplus power available for a part of the year only.

It is proposed to authorize an issue of five percent. bonds, limited to \$10,000,000, of which \$8,000,000 will now be underwritten at 90. The underwriters will be called upon for twenty per cent. of their underwriting in cash. Nothing further will be called from them for three years, arrangements having been made to borrow the funds required over and above the twenty per cent. called. Messrs. Harvey Fisk & Sons will act as syndicate managers and will agree to get their commission on the sale of the bonds out of the price at which they are sold over and above 90. The bonds will, we believe, be non-taxable in Pennsylvania.

[23336] (page 2)

With the \$8,000,000 bonds underwritten will be given a bonus of \$4,000,000 five per cent. cumulative preferred stock. This will be the profit to the underwriters.

The common stock issued will be used to pay the promoters, bankers, etc. The bankers receive no cash commission. All preferred stock issued goes to the underwriters.

A subscriber to \$100,000 underwriting will therefore be called upon to put up \$20,000 for three years or less. When the bonds are sold this will be returned and the underwriter will get \$50,000 preferred stock bonus for nothing.

The management of the company will be in the hands of a committee, on which will be a member of the firm of Harvey Fisk & Sons, a member of the firm of Bertron, Storrs & Griscom, Mr. C. A. Coffin, Mr. H. F. Dimock, who has been interested in this project for some years, myself, and possibly one or two others.

We propose to keep part of this underwriting for ourselves.

Very truly yours,

(S.) Gardiner M. Lane.

P.S. The flow of the river is well known. There is a period of low water which averages about a month a year. The longest period of low water ever known was for three months. The above figures include \$1,200,000 for a steam plant to be used during periods of low water, and at other times if desirable.

G.M.L.

EXHIBIT No. 174.

[23337]

(Copied from McCall Ferry Power Co. File #112 L. H. & Co.)

Office of
Lee Higginson & Co.
44 State Street,
Boston

. PH — F.

July 19, 1907.

Dear Sir:

About two years ago we placed over \$2,000,000 Susquehanna Power Company underwriting, consisting of First Mortgage 5 Per Cent bonds, at 90, carrying a bonus in some cases of 45 per cent., and in some cases of 50 per cent 5 per cent preferred stock, cumulative after April 15, 1909.

We have now bought \$100,000. more of the bonds, carrying preferred stock as a bonus which we shall want to sell within the next week or so. Perhaps a short summary of the company and statement of earnings will help to refresh your memory.

The Susquehanna Power Company, or McCall's Ferry Power Co., as we believe it is now to be called, is situated on the Susquehanna River, about 40 miles from Baltimore, Harrisburgh, Reading and Wilmington, 50 miles from Chester and 65 miles from Philadelphia. There is no difficulty in carrying the power as far as Philadelphia or further. The only water-power on the Atlantic Seaboard between New York and Washington is on the Susquehanna River. In the territory tributary to this company there are at present more than 500,000 steam horse-power in use. There is no doubt of the ability of the company to sell all of its power at profitable prices,—in fact, we submit a little

later in this letter figures based on contracts already closed and about to be closed.

The company is being built by the best engineers in the country, Mr. William Barclay Parsons, who built the New York subways, being one of the consulting engineers.

The company was formed originally to develop 50,000 horse-power, but finding that 75,000 horse-power could be developed with a very little additional expense and that the company could sell the full amount without trouble, the increased work was undertaken. The main dam is now almost completed and the chief work remaining is the completion of the power-house and the erection of the transmission lines.

About three weeks ago we sent you an illustrated pamphlet showing in detail the construction of the property. We are now sending you, under separate cover, a copy of the syndicate agreement, giving further details regarding the issue of bonds.

The management of the company is in the hands of a committee on which is a member of the firms of Harvey Fisk & Sons, Bertron, Storrs & Griscom, and Lee, Higginson & Company; also on this committee are Mr. C. A. Coffin, and Mr. H. F. Dimock who has been interested in this project for a number of years.

We quote below from a letter received from Messrs. Bertron, Storrs & Griscom. You will notice that the estimate of earnings is based on contracts already signed and on contracts which the company expects to close with a short time; also you will notice the extremely low prices at which these contracts have been made. If the company is able to earn 8 per cent, on its common stock, [23338] selling power at not over \$25., it certainly is in a very safe position. You will also see that the earnings are estimated on the sale of only 75,000 horse-power, whereas the company will be able at times to deliver as much as 100,000 horse-power. This extra 25,000 horse-power, if sold, will be practically all net.

• • •

Our idea now is to sell \$100,000 underwriting, figuring the bonds at 90, carrying a bonus of 45% preferred stock. The bonds are only 20 per cent paid, and no further call can be made until after May, 1908. You will notice in the syndicate agreement that the underwriters give an option on their bonds to the bankers at 90. It is hoped and expected that the bonds will be sold before any call in excess of the 20 per cent is made. This will leave the underwriters with the preferred stock costing them nothing. If this underwriting was attractive a year and a half or two years ago it is doubly so now as the chief construction work has already been accomplished and a majority of the contracts actually closed; in other words, we are now offering underwriting on a proposition the success of which is practically assured, and the offer seems extremely attractive. It is the same as if we should offer two years from now Central Colorado underwriting on the same terms as we are at present, and after that company had gone so far with its construction work as to prove its success beyond question.

You may offer any part of this \$100,000 on the above terms, subject to confirmation with us. This additional amount which we are taking now is part of \$600,000 which is being sold to pay for the cost of the 25,000 horse-power to be developed over and above the 50,000 planned at first.

If there are any further questions you wish to ask, kindly advise us.

Very truly yours,

EXHIBIT No. 175.

[23339]

(Copied from Co. File #3951 — 3)

McCALL FERRY POWER COMPANY

Office of the Chief Engineer
Room 2407, Sixty Wall Street.
New York City

April 20th, 1908.

H. F. Dimock, Esq. President,
McCall Ferry Power Company,
#60 Wall Street, New York City.

Dear Sir,—

The following report has been prepared to supplement the joint report of the Advisory Engineers of the Company, dated April 17th 1908, and gives the facts contained in that report in greater detail as well as certain additional information.

The original basis of this project was a dam at McCall Ferry in accordance with the general designs of the late Geo. S. Morison, with a crest elevation of 155 feet and a power house to deliver 50,000 horse power.

Further investigation showed that it was practicable to make the development on a larger scale, and plans were drawn for a dam having a crest elevation of 165 feet, and a power house to deliver 100,000 horse power.

At the time that capacity of the plant was doubled, it was known that it would be necessary to provide more money, but no steps were taken to this end; consequently last November the Company found itself out of funds and the work was discontinued.

This increase in the output of the plant was made possible by the excavation of a tail race, which, together with the increase in the height of the dam, gives an increase of approximately 15 feet in the available head, and also by reason of favorable contracts for the supply of auxiliary steam power required. The minimum power of the river is much less than this, and the economical output is determined principally by the cost of the auxiliary steam power that must be supplied during the low water season.

The condition of the work at present is,—

The dam is finished entirely across the river, with the exception of certain openings left in it for the passage of the spring flood waters; these openings can be closed at any time.

The power house substructure is completed; the intake and discharge passages for the water are finished and part of the superstructure is up. All construction work below the water level has been [23340] (page 2) completed and work can be carried on in the future without regard to the condition of the river, with the single exception of the excavation of the tail race, which must be done at low water. The foundation for both the dam and the power house is solid rock throughout; no artificial foundations of any kind have been used.

From now on the execution of the work will be simple; all the difficulties have been surmounted, and there is no possibility of future complication. Furthermore, the estimates of the cost to complete the work given herewith can be considered eminently safe, inasmuch as the costs are accurately known from our past work, and also because a large part of the total is for machinery and materials which are under contract.

It is the present plan to complete the power house and the works on the river and to install six units, this work to be done by the McCall Ferry Power Company, and to build a transmission line to Baltimore with a capacity of 60,000 horse power by a New Company; later the four additional

units will be placed in the power house, and additional transmission lines will be built, probably to Lancaster and Reading.

The total estimated cost of the power plant with all works on the river, including the hydraulic and electrical equipment for six units, and including allowances for interest and administration based on the assumed date of completion of July 1st, 1909, will be \$10,300,000

The total cost of the transmission line to Baltimore, having a capacity of 60,000 h.p. including right-of-way and sub-station equipment complete, will be 800,000

Making the total cost of the plant and lines equipped to deliver 60,000 h. p. in Baltimore \$11,100,000

The total cost for the four additional units in the power house, ready for operation, will be \$600,000

The total cost of additional transmission lines for 40,000 h.p. to Lancaster and Reading, will be 900,000

Making the total cost of the plant completely equipped with ten units and with transmission lines to deliver 100,000 horse power \$12,600,000

The Company has spent, or has in hand, a total of \$7,500,000; it will therefore be necessary to provide \$3,600,000 to complete the works and transmission lines for six units, and \$5,100,000 to complete the works and lines for ten units.

[23343] (page 5)

Very truly yours

(S.) Cary T. Hutchinson
Chief Engineer.

EXHIBIT No. 176.

[23347]

(Copied from McCall Ferry Power Co. file #31)

KNICKERBOCKER TRUST COMPANY

66 Broadway.

New York

December 10, 1907

H. F. Dimock, Esq., President
McCall Ferry Power Co.,
60 Wall Street, N. Y.

Dear Sir:

On behalf of the Receivers of the Knickerbocker Trust Company, I beg to acknowledge receipt of a circular from you, dated December 3rd, announcing the practical stoppage of work of the McCall Ferry Power Company and stating that Company had no deposit with the Knickerbocker Trust Company, but that "the suspension of that Company did, however, interfere with our arrangements for getting money to carry on the work". It appears to the Receivers that this phrase is perhaps liable to misconception and misunderstanding. It is difficult to see how the suspension of the Knickerbocker Trust Company had anything to do with the stoppage of work of the McCall Ferry Power Company's undertaking, in view of the fact that no money had been called for from the Knickerbocker Trust Company to carry on the work, except \$208,756.20, none of which was to be utilized for carrying on the work, but all for the payment of commissions on loans. In other words, none of it was to pass out of the hands of the Knickerbocker Trust Company or the Receivers to your Company of the Susquehanna Contracting Company.

Enclosed herewith I send you copy of a letter written on behalf of the Receivers, to the Susquehanna Contracting Company under date of December 7th, from which you will see that the Receivers have taken steps to complete the loan originally agreed to be made, and to renew the notes due November 1, 1907.

It seems to the Receivers that other causes must have led to the suspension of the work, the more probable one being that it had been ascertained that the sum agreed to be loaned will not be sufficient to complete the work. Neither the circular issued by you, nor the letter from the Chief Engineer attached thereto, give any information as to whether the money already agreed to be furnished will complete the work.

Very truly yours,

(S.) Henry C. Ide
Receiver

HCI/W

EXHIBIT No. 177.

[23348]

(Copied from the Minutes of the Executive Committee of
McCall Ferry Power Co.)

October 30 — 1907

H. F. Dimock, Esq.

President McCall Ferry Power Co.

#60 Wall Street, N.Y. City.

Dear Sir,—

In accordance with the instructions given at the last meeting of the Executive Committee, I beg to submit the following estimates of:

“A”—The cost to be incurred if it is decided to shut down work at once and to retain only such employees as are necessary to safeguard the Company's property.

(2) To clean up and put away plant at Ferry in order to preserve from damage during indefinite suspension of work\$25,000.00

[23349] (page 2)

Yours very truly

J. W. Kirkland
Vice-President.

K/M

EXHIBIT No. 178.

[23350]

(Copied from minutes of the Executive Committee of McCall Ferry Power Co held January 17th. 1908.)

Philadelphia, Jan. 11—1908

My dear Mr. Kirkland—

I am very much disappointed not to have heard from you before this in reference to the settlement of our September and October bills and our Executive Committee have now put it up to me to secure some definite information relative to the work of the McCall Ferry Power Company.

You may recall that I spoke to you early in December as to not having in writing any authority for the cessation of the work on this contract it having been done in a telephone communication from Mr. Cooper on October 24th. last.

In my last interview with you, you had great hopes of being able to give us some definite information the first week in January, but I have as yet heard nothing from you.

Will you please therefore write me upon receipt of this letter an official communication in regard to the actual stopping of work on the contract October 24th. last, and also in regard to making payment of our long overdue bills.

I am obliged to have this information to present at the meeting of our directors which takes place some time the week after next.

Trusting you have in the meanwhile been able to make arrangements to send us a substantial remittance, I am with kindest regards

Yours very truly

H. A. Hand
General Manager

EXHIBIT No. 179.

[23351]

(Copied from Co. file #3951 — 2)

McCALL FERRY POWER CO.

November 26, 1907.

J. W. Kirkland, Esq., Vice President,
McCall Ferry Power Company,
60 Wall Street, New York.

Dear Sir:—

In accordance with your request of yesterday we hand you herewith a statement showing number of men at McCalls Ferry employed each day during the current month to the 22nd inclusive, the work at which they were employed and the cost of same.

The work done during the month includes the placing of about 600 yards of concrete in the power house substructure at a point where ordinary high water would become a menace to the existing permanent work and plant, and also includes about 130 cubic yards of concrete placed in ice protection arches which was necessary to complete the same.

During the first few days of November the extra number of carpenters was employed in rendering all the head gates safe against high water and in general making the power house concrete safe against all possible floods.

The account "Miscellaneous", besides including electrician and watchmen, includes labor of unloading 10 cars of roof tile, office force on daily payroll, stable account, labor charged to Supply Co. and Hospital and labor of taking inventory.

Yours very truly,

(S.) J. P. Allen,
Purchasing Agent.

JPA/C

EXHIBIT No. 180.

[23352]

Day		Removing and Storing Forms, Plant, Lumber and Tracks	Erection of Forms for Concrete	Mixing and Placing Concrete	Repairs to Cars, Loco- motives and Plant	Miscel- laneous, inc. Elec- tricians, Watch- men	Total
1	Men	133	97	56		9	295
	Cost	\$300.10	\$296.00	\$122.25		\$23.70	\$742.05
2	Men	4				25	29
	Cost	\$12.40				\$53.90	\$66.30
4	Men	100			4	15	119
	Cost	\$253.30			\$12.75	\$40.95	\$307.00
5	Men	111				9	120
	Cost	\$280.10				\$25.20	\$305.30
6	Men	56	13	11	8	24	112
	Cost	\$140.80	\$37.00	\$20.00	\$26.25	\$54.25	\$278.30
7	Men	42	22	29	12	6	111
	Cost	\$106.10	\$62.25	\$58.25	\$39.25	\$12.50	\$278.35
8	Men	33	40	34	7	6	120
	Cost	\$77.80	\$116.80	\$68.25	\$21.00	\$13.55	\$297.40
9	Men	55	12	44	8	5	124
	Cost	\$137.85	\$29.25	\$96.50	\$25.75	\$17.80	\$307.15
11	Men	64	13		12	18	107
	Cost	\$129.69	\$29.48		\$28.31	\$31.26	\$218.74
12	Men	59	7		9	15	90
	Cost	\$113.45	\$20.50		\$23.45	\$24.25	\$181.65
13	Men	34		25	9	24	92
	Cost	\$73.05		\$44.80	\$21.40	\$45.15	\$184.40
14	Men	42	6	25		16	89
	Cost	\$91.05	\$17.80	\$42.05		\$25.85	\$176.75
15	Men	32	5	30	5	12	84
	Cost	\$66.10	\$13.75	\$54.50	\$12.85	\$21.35	\$168.55
16	Men	51		12	12	9	84
	Cost	\$102.15		\$20.05	\$29.75	\$17.55	\$169.50
18	Men	47			19	19	85
	Cost	\$64.75			\$36.85	\$65.25	\$166.85
19	Men	65			7	24	96
	Cost	\$109.75			\$18.70	\$30.60	\$159.05
20	Men	49			9	26	84
	Cost	\$100.05			\$22.75	\$42.80	\$165.60
21	Men	13			9	5	27
	Cost	\$30.60			\$23.00	\$9.25	\$62.85
22	Men	47			9	24	80
	Cost	\$88.60			\$23.00	\$38.90	\$150.50
Cost		\$2,277.69	\$622.83	\$526.65	\$365.06	\$594.06	\$4,386.29

EXHIBIT No. 185.

[23358]

(Copied from J. E. Aldred, Receiver,

File # 15.)

6th May, 1909

R.M. Aitken, Esqr.,
Messrs. Kitcat & Aitken,
120, Bishopsgate Street Within,
E. C.

Dear Mr. Aitken,

. . .

[23361] (page 4)

. . .

We shall receive as a bonus for carrying out this proposition a total amount of \$3,500,000 of Stock, less such amount as shall be necessary to cover the 50% bonus of Stock above mentioned.

. . .

[23364] (page 7)

. . .

The money would be required one-half this year, and one-half next year. The general proposition of Stock would be a 50% bonus of Stock with the Bonds, and I propose to take \$500,000 of Stock myself. This would cover my personal requirements, and one or two people on the other side, who furthered the proposition and whom I must take care of. There would be left a balance of something like \$900,000 of Common Stock to be divided between your firm and Messrs. Wood and Holt.

EXHIBIT No. 207.

[23404]

• • •

NOW, THEREFORE, THIS AGREEMENT, Made this fourth day of April, one thousand nine hundred and four, between GEORGE B. WILLSON and WILLIAM F. BEYER, all of the County of Lancaster, State of Pennsylvania, parties of the first part, and DR. CARY T. HUTCHINSON of the City of New York, party of the second part, WITNESSETH as follows:

1. The parties of the first part in consideration of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, and other valuable considerations, DO HEREBY give, grant, bargain and sell unto the party of the second part, DR. CARY T. HUTCHINSON, of the City of New York, his heirs and assigns, executors, and administrators and nominees, the exclusive option, right and privilege to purchase on or before January 1st, 1906, for the sum of One hundred fifty-five thousand five hundred (\$155,500.) Dollars all the real estate which they, the said George B. Willson and William F. Beyer, [23405] (page 3) parties of the first part, have acquired, and the necessary flowage rights and releases of damages incident to the development of water power on the Susquehanna River near York Furnace, Pennsylvania, being all the real estate that will be affected by the damming of the river across Duncan's Island to the elevation of one hundred and sixty (160) feet above tide water as set forth in memorandum of real estate, releases, &c., hereto annexed and marked Exhibit "A".

• • •

EXHIBIT No. 208.

ESTIMATES
for
McCALL FERRY PLANT

**With Permanent Structures for 75,000 Horse-Power
and Equipment for 52,500 Horse-Power**

December 18, 1905

[23415] (Page 2)

COST OF CONSTRUCTION

of Hydro-Electric Plant at McCall Ferry, with Dam at Elevation 185 feet and Power-house large enough to contain 10 Generating Units with a Capacity to Deliver 75,000 Horse-power, but with Equipment for 7 Units Only, having a Capacity to Deliver 52,500 Horse-power, the Plant being so Constructed that the Other 3 Units can be added at any time.

SUMMARY OF COSTS

1	Dam, Power-house Sub-structure, Raftway, Embankment, including Masonry up to Elevation of Power-house Floor	\$2,500,000
2	Buildings	200,000
3	Hydraulic Equipment	275,000
4	Electric Equipment	875,000
5	Transmission Lines to Havre de Grace and Baltimore, with Circuits to deliver one- half of the power to each place	300,000
	Sum	\$4,150,000
6	Unclassified and Engineering	415,000
7	Elevation of Tracks of Columbia and Port Deposit Railroad	1,250,000
8	Property, Property Damages and Right-of-way:—	
	McCall Purchase	\$750,000
	Peach Bottom Purchase	425,000
	Wittmer Purchase	45,000
	Sundry Small Purchases	15,000
	Property on Conestoga Creek (estimated)	50,000
	Damage to Water Plant at Safe Harbor (estimated) ..	50,000
	Right-of-way to Baltimore and Havre de Grace	65,000
	Right-of-way for Railroad ..	100,000
		1,500,000
9	Administration	200,000
	Sum	7,515,000
10	Interest during Construction	750,000
	Total	8,265,000

Per Delivered Horse-Power \$157

[23416] (page 3)

This leaves a balance of \$735,000, from the sale of \$10,000,000 bonds @ 90 which is more than enough to pay for the additional three units to make up the total of 75,000 Horse-power.

ANNUAL CHARGES

Interest, 5% on \$10,000,000	\$ 500,000
Sinking Fund	165,000
All Operating Expenses	250,000
<hr/>	
Total	915,000
Income, 52,500 horse-power at \$25	1,315,000
Surplus	400,000

This surplus is applicable to the payment of dividends on stock, and would leave \$150,000 for the common stock after the payment of \$250,000 dividend on preferred stock.

This assumes the delivery of power half to Havre de Grace and half to Baltimore; to deliver one-half to Philadelphia will cost \$300,000 more than to deliver it to Havre de Grace.

(S.) Cary T. Hutchinson
Chief Engineer.

EXHIBIT No. 209.

[23417]

(Copied from file #3951 — 12)

McCALL FERRY POWER COMPANY

Office of the Chief Engineer.

Room 2407, Sixty Wall Street.

New York City

October 3, 1906.

J. W. Kirkland, Esq.

Vice-President and General Manager

McCall Ferry Power Company

60 Wall Street

New York, N. Y.

Dear Sir:—

Referring to your letter of Oct. 3rd, the item headed "Fixed Charges" in Mr. Parsons' report, is made up as follows:

Kerbaugh Contract	\$1,250,000
Pennsylvania Railroad Right of Way	180,000
Lands Originally Purchased	1,320,000
Removal of Highways	110,000
Right of Way for Pole Line	180,000
Miscellaneous	100,000
Total	\$3,140,000

The details of the item of \$1,320,000 is made up, as follows:

3848

Exhibit No. 209

Original Purchase	\$ 750,000
Peach Bottom Purchase	425,000
Witmer Purchase	45,000
Sundry Small Purchases	100,000
<hr/>	
Total	\$1,320,000

[23418] (page 2)

Very truly yours

(S.) Cary T. Hutchinson
Chief Engineer.

EXHIBIT No. 210.

[23419]

(Copied from Co. File #3951 — 13)

McCALL FERRY POWER COMPANY

Sixty Wall Street
New York

May 8th, 1907.

H. F. Dimock, Esq.,
President, McCall Ferry Power Company,
60 Wall Street, N. Y. City

Dear Sir:—

We present herewith in detail and summarized our estimates of the total cost of the works of the McCall Ferry Power Company, including purchases of land and all other expenses, the cost being carried up to Jan. 1st, 1909, at which time the Company will have in operation plant capable of delivery 50,000 horse power.

• • •
[23420] (page 2)
• • •

Very truly yours,

(S.) J. W. Kirkland
General Manager.

(S.) Cary T. Hutchinson
Chief Engineer.

[23421] (page 3)

McCALL FERRY POWER COMPANY

COST OF CONSTRUCTION OF PLANT

SUMMARY

Sheet		Total Estimate	Expendi- tures to Apr. 1, '06	Balance Apr. 1, '06
A.	Hydraulic Construction:			
	Dam & Power House Substruct.	\$2,662,300	\$1,529,400	\$1,152,900
	Improvement of Tail Race	305,000	101,700	203,300
	Removal of Highways	50,000	7,200	42,800
	Clearing Flowage Basin	10,000	100	9,900
A.	Hydraulic Machinery	482,100	4,200	477,900
B.	Elec. Construction & Equipment	1,372,000	2,100	1,369,900
C.	Administration & Gen'l. Exp., and Miscellaneous	962,300	541,900	420,400
	Relocation of Railroad (\$1,250,000 less \$45,000 for old rails.)	1,205,000	698,400	506,600
	Real Estate:			
	Original Purchase	750,000	750,000	—
	Syndicate Managers	50,000	50,000	—
	Harlow Purchase	435,000	435,000	—
	Pold Line & Balto. Sub. Sta.	185,000	—	185,000
	Pa. R. R. & Misc.	167,000	130,100	36,900
D.	Interest during construction, to Jan. 1, 1909	1,179,300	759,900	419,400
		<u>\$9,815,000</u>	<u>\$5,010,000</u>	<u>\$4,805,000</u>

May 7th, 1907.

Note

Please turn to Card 82
for Exhibit No. 216, Page 3851.

EXHIBIT No. 232.

[23565]

**IN THE
UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

IN EQUITY.

**PENNSYLVANIA WATER & POWER COMPANY,
A BODY CORPORATE,**

v.

**THE SUSQUEHANNA POWER COMPANY,
A BODY CORPORATE.**

*To the Honorable, the Judge of the United States District
Court for the District of Maryland:*

Pennsylvania Water & Power Company, a body corporate, brings this its bill of complaint against The Susquehanna Power Company, a body corporate, and complaining says:

1. Your orator, Pennsylvania Water & Power Company, is a corporation duly incorporated under the laws of the State of Pennsylvania and is a citizen and a resident of the State of Pennsylvania. The defendant, The Susquehanna Power Company, is a corporation duly incorporated under the laws of the State of Maryland and is a citizen and a resident of [23566] (page 2) the State of Maryland. This is a suit of a civil nature in equity between citizens of different states and the matter in controversy exceeds, exclusive of interest and costs, the sum of three thousand dollars.

2. Your orator is the owner of a large dam and power house in, across and by the Susquehanna River in the

vicinity of McCalls Ferry in Martie Township, Lancaster County, and Lower Chanceford Township, York County, State of Pennsylvania. The erection of said dam and power house was begun by McCall Ferry Power Company, a Pennsylvania corporation, (hereinafter called "McCall Company") and was completed by your orator. Your orator succeeded, through certain foreclosure proceedings hereinafter mentioned, to all the property, rights and franchises of the McCall Company. Said dam and power house were erected for the purpose of developing electric current and power for sale to such persons, partnerships and corporations as might desire to purchase the same. The dam and the first unit of the power plant were completed and the generation of the electric current at said plant and the transmission thereof was begun by your orator on October 14, 1910. Ever since October 14, 1910, your orator has been engaged in generating electricity at said dam and plant and transmitting and selling the same to purchasers [23567] (page 3) in the States of Pennsylvania and Maryland. Said dam is located at the town of Holtwood about half a mile below McCalls Ferry and about ten miles up the river from the Maryland state line. The tailrace of your orator's dam extends over seven thousand feet below the dam itself to the foot of Cully's Falls in the channel in the northeastern side of the bed of the river along the left bank thereof. In connection with the ownership, use and operation of its dam and plant your orator is the owner in fee simple of sundry pieces or parcels of land on both sides of the Susquehanna River and of islands and land under water in said river at, above and below its dam and power house in the Counties of Lancaster and York, in the State of Pennsylvania, and is also the owner of sundry rights of flowage and other riparian rights and other easements, privileges, interests in real property and other properties and rights at, above and below its dam in the counties aforesaid. Among the lands so owned by your orator in fee simple are the lands on both sides of the Susquehanna

River where your orator's dam is located, Fry Island, on which part of your orator's dam is located, Piney Island, Barclay Island and Grave Island, which are below your orator's dam but not below the tailrace of said dam, and also all the land on the left bank of the Susquehanna River extending from your orator's dam to the end of the tailrace of said dam at the foot of Cully's Falls, as well as land on said left bank below the foot of Cully's Falls.

[23568] (page 4)

3. The McCall Company was incorporated by the merger and consolidation of Hillside Water and Power Company and Susquehanna Water and Power Company, two Pennsylvania corporations, by a joint agreement for merger and consolidation dated April 1, 1905, and the issuance of letters patent dated April 14, 1905, recorded among the Lancaster County records in Charter Book No. 2, page 435, and among the York County records in Record Book 14 F, page 579.

Hillside Water and Power Company was incorporated by letters patent issued on September 2, 1902, and a certificate of incorporation recorded in the office of the Secretary of the Commonwealth in Charter Book No. 71, page 49, and in the office for the recording of deeds in York County in Record Book No. 12 J, page 337, for the purpose of "the storage and transportation of water and water power for commercial and manufacturing purposes in Lower Chanceford Township, York County, Pennsylvania, and the supply of the same to the public and to such persons, partnerships and corporations residing therein as may desire the same; and in order that the water and water power may be supplied to the public to the best advantage in furtherance of its corporate purposes, the development by the use of the same of electric current and power to the public, individuals, firms and corporations at any place or places at such prices as may be agreed upon."

[23569] (page 5)

Susquehanna Water and Power ~~Company~~ was incorporated by letters patent issued on September 2, 1902, and a certificate of incorporation recorded in the office of the Secretary of the Commonwealth in Charter Book No. 71, page 48, and in the office for the recording of deeds in Lancaster County in Charter Book No. 2, page 261, for the same purpose, except that the place mentioned was Martic Township, Lancaster County, instead of Lower Chanceford Township, York County.

4. The McCall Company to secure the payment of the principal and interest of an authorized issue of ten million dollars (\$10,000,000) principal amount of its bonds executed a certain mortgage dated June 15, 1905, to Knickerbocker Trust Company, a New York corporation, as Trustee, covering all those pieces or parcels of land and of land under water and all those rights of flowage and other riparian rights and all those easements, privileges, interests in real property and other properties and rights in the Counties of Lancaster and York, in the State of Pennsylvania, and the Counties of Harford and Cecil, in the State of Maryland, particularly described in said mortgage or deed of trust and also the several capital stocks and shares thereof described in said mortgage or deed of trust and also the property described in paragraph Seventh of the granting clause of said mortgage, to wit; all patents, inventions, rights or [23570] (page 6) titles in or to patents or inventions, rights to use patented devices, machines, articles or processes, all trade-marks, trade-names and rights to use trade-marks or trade-names, all other land, land under water, water, water rights, water powers, easements, rights to flood lands, real property of every kind and all interests or rights therein, all structures, power plants, hydro-electric works, buildings, dams, raceways, canals, pole lines, transmission lines, fixtures, machinery, appliances, apparatus, equipment and tools, all rights, privileges and franchises

and all other shares of stock in any incorporated company, then owned or which should thereafter be acquired by the McCall Company; it being the intent of said mortgage to convey not only the property therein specifically described but also all other property of the McCall Company of the character mentioned in said paragraph Seventh of the granting clause thereof whether then owned or thereafter acquired.

5. Said mortgage or deed of trust was duly executed, acknowledged and recorded, bonds were duly issued thereunder and secured thereby and, defaults having been made by the McCall Company in the payment of interest and principal of said bonds, said mortgage or deed of trust was duly foreclosed by proceedings in the Circuit Court of the United States for the Eastern District of Pennsylvania instituted by Knickerbocker Trust Company, Trustee as aforesaid, and [23571] (page 7) ancillary proceedings in the Circuit Court of the United States for the Southern District of New York and the Circuit Court of the United States for the District of Maryland, which foreclosure proceedings resulted in a decree of foreclosure and sale in the Circuit Court of the United States for the Eastern District of Pennsylvania dated October 12, 1909, and ancillary decrees in the Circuit Court of the United States for the Southern District of New York dated October 15, 1909, and in the Circuit Court of the United States for the District of Maryland dated October 20, 1909, pursuant to which decree all the property, both real and personal, then owned by the McCall Company, wheresoever situated and every part and parcel thereof, including the property particularly described in said decrees as subject to the lien of said mortgage or deed of trust, was sold together as an entirety by Henry P. Brown, Esq., Special Master, to William M. Barnum, and was conveyed by said Henry P. Brown, as Special Master, to William M. Barnum by a deed dated January 13, 1910, and was also successively conveyed by two deeds of the same date, viz., January 13, 1910, the first from said

William M. Barnum and wife to William M. Barnum and others for and on account of whom said property had been purchased by said William M. Barnum, the second from said William M. Barnum and others to your orator, said William M. Barnum and others under the laws of the State of [23572] (page 8) Pennsylvania having become constituted a body politic and corporate and having after due publication of notice organized such corporation, to wit, your orator, in the manner by law provided and having adopted the corporate name of Pennsylvania Water, & Power Company therefor. Said mortgage or deed of trust was duly recorded in the office for recording of deeds in and for Lancaster County, State of Pennsylvania, in Mortgage Book 108, page 77, in the office for recording of deeds in and for York County, State of Pennsylvania, in Record Book 5A, page 20, among the Mortgage Records of Cecil County, State of Maryland, in Liber M. D. No. 3, folio 338, and among the Land Records of Harford County, State of Maryland, in Liber W. S. F. No. 116, folio 328. The three last mentioned deeds, viz., from Henry P. Brown, Esq., Special Master, to William M. Barnum, from William M. Barnum and wife to William M. Barnum and others, and from William M. Barnum and others to your orator, were each duly recorded in the office for recording of deeds in and for Lancaster County, State of Pennsylvania, in Record Book Z, Vol. 19, page 202, Record Book A, Vol. 20, page 120, and Record Book Y, Vol. 19, page 506, respectively, and in the office for recording of deeds in and for York County, State of Pennsylvania, in Record Book 16 Y, page 91, Record Book 16 O, page 662, and Record Book 16 O, page 664, respectively. Copies of said mortgage or deed of trust and said three deeds are filed herewith marked respectively [23573] (page 9) "Plaintiff's Exhibits Nos. 1, 2, 3 and 4."

6. The defendant, The Susquehanna Power Company, claims to have succeeded in the year 1919 through foreclosure proceedings to the property, rights and franchises

of Susquehanna Power Company, a Maryland corporation, hereinafter called "Susquehanna Company".

7. Before proceedings for foreclosure of the mortgage or deed of trust of the McCall Company were begun and before default had been made by McCall Company under said mortgage the McCall Company conveyed and Knickerbocker Trust Company, Trustee as aforesaid, released from the lien of said mortgage in accordance with the provisions thereof by two deeds each dated August 11, 1908, upon the conditions stated in said deeds (1) to Sowego Water & Power Company, hereinafter called "Sowego Company", a Pennsylvania corporation, by one of said deeds the property, privileges and rights, real, personal and mixed, and all and singular the rights, titles, interests, and estates in law or in equity of the McCall Company and the Trustee and of either of them in, near, by or along the Susquehanna River in the Counties of York and Lancaster, in the State of Pennsylvania, lying below the foot of Cully's Falls and more particularly described in said deed, and (2) by the other of said deeds to the Susquehanna Company the property of the McCall Company in Maryland more particularly described in said deed. [23574] (page 10) Simultaneously with the execution and delivery of the two last mentioned deeds the McCall Company acquired, so as to pass under the lien of its mortgage or deed of trust and so as to be held thereunder in like manner as other property conveyed thereby, by two quit-claim deeds to it each dated August 7, 1908, one from the Susquehanna Company and Sowego Company, the other from Susquehanna Electric Power Company, a Maryland corporation, all the right, title and interest of said three last mentioned corporations respectively to the real property, franchises, interests, flowage rights and easements on, along, near, in or by the Susquehanna River in the State of Pennsylvania above the foot of Cully's Falls. Said deed to Sowego Company and said quit-claim deeds to the McCall Company from the Susquehanna Company and Sowego Company and to the McCall Com-

pany from Susquehanna Electric Power Company were each duly recorded in the office for recording of deeds in and for Lancaster County, State of Pennsylvania, in Record Book N, Volume 19, page 377, etc., Record Book O, Volume 19, page 286, etc., and Record Book N, Volume 19, page 332, etc., respectively, and in the office for recording of deeds in and for York County, State of Pennsylvania, in Record Book 16 I, page 416, Record Book 16 J, page 648, and Record Book 16 J, page 647, respectively. Said deed to the Susquehanna Company was duly recorded among the Land Records of Cecil County, State of Maryland, in Liber M. D., No. 8, Folio 339, and [23575] (page 11) among the Land Records of Harford County, in Liber W. S. F., No. 125, Folio 362. Copies of said two deeds from the McCall Company and said two quit-claim deeds to the McCall Company are filed herewith marked "Plaintiff's Exhibits Nos. 5, 6, 7, and 8," respectively.

8. In the aforesaid deed from the McCall Company and Knickerbocker Trust Company, Trustee, to Sowego Company, it is recited, among other things, that it appears to the Trustee that a release from the lien of the aforesaid mortgage or deed of trust of the properties in said deed described and of the properties described in the deed from the McCall Company and the Trustee to the Susquehanna Company conveying properties in Maryland bearing the same date as said deed is desirable in the conduct of the business of the McCall Company and that the McCall Company acquires simultaneously so as to pass under the lien of said mortgage or deed of trust and so as to be held thereunder in like manner as other property conveyed thereby property to an amount equal in value to the property released by said deed and by said conveyance to the Susquehanna Company, including the right, title and interest in the real property, franchises, interests, flowage rights and easements in the Susquehanna River above the foot of Cully's Falls quit-claimed and released by the Susquehanna Company and Sowego Company and by the Susquehanna

Electric Power Company [23576] (page 12) respectively, and that the Trustee accordingly joins in the execution of said deed for the purpose of releasing the properties therein described from the lien of said mortgage or deed of trust. The aforesaid deed from the McCall Company and Knickerbocker Trust Company, Trustee, to the Susquehanna Company contains recitals to the same effect and, *mutatis mutandis*, in the same words.

The properties conveyed and released by and particularly described in the aforesaid deed to Sowege Company include:

Those more particularly referred to and described in the deeds and instruments mentioned in the following sub-divisions of paragraph First of the granting clause of the mortgage or deed of trust, viz.

(a) 16 specified sub-divisions in which are mentioned deeds of certain pieces or parcels of land (subject as to two of said 16 sub-divisions to certain grants or leases not now material).

(b) "So much of the undivided one-half interest described in Subdivision 40 (A. Randolph Kilgore property) as lies below the foot of Cully's Falls."

(c) "So much of the property described in Subdivision 65 (William Sweigart property) as lies between the river and the right of way of the Columbia and Port Deposit Railroad, as located, constructed and operated prior to 1907. Also the right to flow and flood [23577] (page 13) water over, and utilize for water-power purposes, the balance of the property described in said Subdivision 65, by the erection and operation of a dam or dams having a crest elevation of not exceeding 100 feet above mean sea level."

(d) "Subdivision 71, consent and release of and from the Susquehanna Canal & Power Com-

pany, and Subdivision 72, consent and release of and from the Tidewater and Susquehanna River Railroad Company, in so far only as the said consents and releases relate to lands, right and franchises below the foot of Cully's Falls, expressly reserving to the McCall Company and the Trustee the benefit and advantage of said consents and releases in so far as the same relate to lands, rights and franchises above the foot of Cully's Falls; and the McCall Company does hereby authorize the Sowego Company, its successors and assigns, to construct, maintain and operate a dam or dams, and water-power plant or plants and appurtenances at any point or points upon the Susquehanna River below the foot of Cully's Falls."

"Together with the following described property, privileges and rights not specifically described in said deed of trust or mortgage, which are or may be covered and [23578] (page 14) included by the terms and provisions of paragraph 'Seventh' of the description of property contained in said deed of trust and mortgage, that is to say:

(1) The right to flow and flood water over, and acquire for water-power purposes, by the erection and operation of a dam or dams having a crest elevation of not exceeding 100 feet above mean sea level, so much of the following described parcel of land as lies below the foot of Cully's Falls, that is to say: That certain parcel of land in Martie Township, Lancaster County, conveyed by Amer Kline and wife to Cary T. Hutchinson by deed dated the 28th day of April, 1905, recorded in the Land Records of Lancaster County in Deed Book X, No. 17, at page 416, and conveyed by Cary T. Hutchinson to the McCall Company by deed dated the 6th day of August, 1908, subject to a grant to

the Chanceford Telephone Company of an easement to maintain a telephone line, executed the 29th day of January, 1908.

(2) All those certain pieces or parcels of land in Lancaster County, conveyed to McCall Company by John W. Kephart and wife by deed, dated the 20th day of November, 1907, recorded in the Land Records of Lancaster County, in Deed Book Y, Volume 18, page 572.

(3) Such rights of flowage and water-power as have been, or are about to be, conveyed to the [23579] (page 15) McCall Company, or upon its order or direction by the Columbia & Port Deposit Railway Company, and the Philadelphia, Baltimore & Washington Railroad Company on, near, or by the Susquehanna River between the foot of Cully's Falls and the Pennsylvania and Maryland State Line.

Together with all other property, privileges and rights, real, personal or mixed, of the McCall Company, whether in its own name, or in the name of the Trustee, or in the name of any other person or corporation, situate in the State of Pennsylvania in the Counties of York and Lancaster, lying below the foot of Cully's Falls in the Susquehanna River, that is to say, between said Cully's Falls and the State line between Pennsylvania and Maryland, known as 'Mason & Dixon's Line' (with an exception not now material) "provided and upon the condition that the Soweigo Company shall not flow back upon, encroach upon or interfere with the water-power plant of the McCall Company near McCall Ferry and the tail race thereof extending to the foot of Cully's Falls."

The properties conveyed and released by and particularly described in the aforesaid deed to the Susquehanna Company include, among others:

"all the property, privileges and rights, real, personal or mixed, more particularly referred to and described in paragraphs numbered 'Second' " (which paragraph Second includes 12 subdivisions, in 9 of which are mentioned [23580] (page 16) deed and patents for sundry pieces or parcels of land in the Counties of Harford and Cecil, in the State of Maryland), " 'Third', 'Fourth', and 'Sixth' of the description of the properties contained in said deed of trust or mortgage, and in a deed from Alexis P. Bartlett, et al, to the Trustee, dated the 7th day of August, 1905, and recorded on the 11th day of August, 1905, in the Land Records of Harford County, Maryland, in Liber W. S. F., No. 115, at folio 336, and in the Land Records of Cecil County, Maryland, in Liber M. D., No. 21, at folio 520, the assignment of the consents and releases described in subdivisions 10, 11 and 12 of said Second paragraph being in so far only as the same relate to the construction, maintenance and operation of a dam or dams and water-power plant or plants and appurtenances upon the Susquehanna River below the Pennsylvania and Maryland State Line, the benefit and advantage of said consents and releases in so far as the same relate to lands, rights and franchises above the Pennsylvania and Maryland State line being expressly reserved and excepted from this conveyance, and the McCall Company does hereby authorize the Susquehanna Company, its successors and assigns, to construct, maintain and operate a dam or dams, water-power plant or plants and appurtenances, at any point or points upon the Susquehanna River below the Pennsylvania and Maryland State line;"

"Together with all other property, privileges and [23581] (page 17) rights, real, personal and mixed, of the McCall Company, whether in its own name or in the name of the Trustee, or in the name of any other person or corporation, and situate in or relating to the

State of Maryland," (with exceptions not now material), "provided and upon the condition that the Susquehanna Company shall not flow back upon, encroach upon, or interfere with the water-power plant of the McCall Company near McCall Ferry, and the tail race thereof extending to the foot of Cully's Falls;"

9. In the decree of foreclosure and sale hereinbefore referred to the enumeration of property subject to the lien of the mortgage or deed of trust and by said decree decreed to be sold includes, among other things:

"All those pieces or parcels of land, and of land under water, and all those rights of flowage and other riparian rights, and all those easements, privileges, interests in real property, and other properties and rights in the Counties of Lancaster and York, in the State of Pennsylvania, particularly described in the following deeds to the McCall Ferry Power Company, viz.:

j. Quit-claim Deed from Susquehanna Electric Power Company, acknowledged August 7, 1908, and recorded in Lancaster County Records, in Book N, Vol. 19, page 332, and in York County Records in Book 16J, page 647.

[23582] (page 18)

k. Quit-claim Deed from" Susquehanna Company and Soweego Company, "acknowledged August 7, 1908, and recorded in Lancaster County Records, in Book O, Vol. 19, page 286, and in York County Records in Book 16J, page 648.

All the rights, benefits, properties, privileges, provisions and conditions reserved in, or acquired through or by the execution, delivery and acceptance of, the deeds from the" McCall Company and Knickerbocker

Trust Company to the Sowego Company and the Susquehanna Company "respectively, both dated August 11th, 1908."

In the deed hereinbefore mentioned from Henry P. Brown, as Special Master, to William M. Barnum the enumeration of the property thereby conveyed includes, among other things, the same items expressed in the same words just quoted from the decree of foreclosure and sale.

The deed hereinbefore mentioned from William M. Barnum and wife to William M. Barnum and others contains no particular enumeration of property but conveys "all the property, both real and personal, and the franchises of the" McCall Company "and all the property and franchises conveyed to the said William M. Barnum by the said deed" from Henry P. Brown, as Special Master. The deed from William M. Barnum and others to your orator contains no particular enumeration of property but conveys "all the property", both real and [23583] (page 19) personal, and the franchises of the" McCall Company "and all the property and franchises conveyed to the parties of the first part".

1. All the land on the left bank of the Susquehanna River extending from your orator's dam to the end of the tailrace of said dam at the foot of Cully's Falls is included among those pieces or parcels of land in the Township of Martie, in the County of Lancaster, in the State of Pennsylvania, particularly described in the following deeds (hereinafter designated by the same numbers by which they were designated in the mortgage or deed of trust of the McCall Company, the decree of foreclosure and sale and the deed from Henry P. Brown, as Special Master, and in the case of properties acquired by the McCall Company after the execution of its mortgage or deed of trust by the same letters by which they were designated in said decree of foreclosure and sale and said deed from Henry P. Brown, as Special Master) viz:

"9. Deed from Milton L. Fry and Corina J. Fry, his wife, to Cary T. Hutchinson, dated August 12, 1903, and recorded in the office for recording of deeds in and for York County, in Record Book No. 14F, page 668, on May 25, 1905, and in the office for recording of deeds in and for Lancaster County, in Deed Book G, Volume 17, page 318 &c., on October 28, 1903, conveying six (6) tracts of land in Lower Chanceford Township, York County [23584] (page 20) and Martic Township, Lancaster County, at McCall's Ferry."

The premises, property and rights described in said deed being part of the same premises, property and rights which were conveyed by Cary T. Hutchinson and Susan D. Hutchinson, his wife, to Alexis P. Bartlett and Ross A. Mackey by a certain deed dated June 16, 1905, and recorded in the office for recording of deeds in and for Lancaster County in Deed Book U, Volume 17, page 166, on June 24, 1905, and in the office for recording of deeds in and for York County in Deed Book 14J, page 43, on June 26, 1905; and being part of the same premises, property and rights subsequently conveyed by Alexis P. Bartlett and Georga P. Bartlett, his wife, and Ross A. Mackey to the McCall Company by deed dated August 7, 1905, and recorded in the office for recording of deeds in and for York County in Book 14 J, page 178, and in the office for recording of deeds in and for Lancaster County in Deed Book Z, Volume 17, page 297.

"i. Deed from Cary T. Hutchinson and wife, dated August 6, 1908, and recorded in Lancaster County Records, in Record Book I, Vol. 19, page 327, conveying the same property conveyed to said Hutchinson by Amer Kline and wife by deed dated April 28, 1905, and recorded in Lancaster County Records in Deed Book X, No. 17, page 416, situated in Martic Township, Lancaster County."

So much of the parcel of land conveyed by the deeds mentioned in this paragraph i as lies below the foot of Cully's Falls is subject to the right granted by the McCall

Company and released by Knickerbocker Trust Company, [23585] (page 21) Trustee, to the Sowego Company by the deed hereinbefore mentioned dated August 11, 1908, to flow and flood water over and acquire for water power purposes by the erection and operation of a dam or dams having a crest elevation of not exceeding 100 feet above mean sea level.

The said parcel of land was formerly subject also to the flowage rights which were granted by deed from Thomas Cully to Charles R. McConkey dated May 16, 1900, and recorded in the office for recording of deeds in and for Lancaster County in Deed Book U, Volume 16, page 112, and were successively conveyed by deed from Charles R. McConkey to Martie Water and Power Company by deed dated April 14, 1902, and recorded in the office for recording of deeds in and for Lancaster County in Deed Book U, Volume 16, page 113, deed from Martie Water & Power Company to Susquehanna Falls Power Company, dated September 2, 1902, and recorded in the office for recording of deeds in and for Lancaster County in Deed Book X, Volume 16, page 203, and deed from Susquehanna Falls Power Company to your orator dated February 10, 1925, and recorded in the office for recording of deeds in and for Lancaster County in Deed Book F, Volume 27, page 227.

"q. Deed from Cary T. Hutchinson and wife, dated April 16, 1909, and recorded in Lancaster County Records on April 23, 1909, conveying two certain tracts of land in Martie Township, Lancaster County, viz.: a certain tract containing 25.4 acres, more or less, conveyed by George G. Cully and wife to said Hutchinson by deed [23586] (page 22) dated September 27, 1905, and recorded in Lancaster County Records in Deed Book A, No. 18, page 27, and also that certain tract of land containing 35 acres, 17 perches, more or less, conveyed by Amer Kline and wife to said Hutchinson by deed dated July 27, 1905, and recorded in Lancaster

County Records in Deed Book W, No. 17, page 590, except so much thereof as was conveyed by said Hutchinson and wife to George G. Cully by deed dated November 27, 1905, and recorded in Lancaster County Records on April 10, 1909."

All of Fry Island was included among those pieces or parcels of land or of land under water particularly described in and conveyed by the deeds hereinbefore in this paragraph 10 designated 9.

All of Piney Island, Barclay Island and Grave Island were included among the pieces or parcels of land or of land under water described in and conveyed by the following deeds to the McCall Company (designated by the same letters as in the aforesaid decree of foreclosure and sale and deed from Henry P. Brown, as Special Master) viz:

"f. Deed from John J. Frick and wife, William A. Brown and wife and Louise E. Guion, dated December 17, 1906, and recorded in Lancaster County Records in Deed Book K, No. 18, page 484, conveying a certain island known as Ankrim's Island, Pine Island or Piney Island, [23587] (page 23) in Martie Township, Lancaster County.

g. Deed from Christian F. Quade and wife, dated March 28, 1907, and recorded in Lancaster County Records, in Deed Book Q, No. 18, Page 172, conveying three certain islands in Martie Township, Lancaster County, known respectively as Kilgore Island, Barclay Island and Graves Island."

All the land on the left bank of the Susquehanna River extending from your orator's dam to the end of the tail race of said dam at the foot of Cully's Falls and also all of Fry Island, Piney Island, Barclay Island and Grave Island (including so much of Fry Island as is now flooded by your orator's dam) were conveyed by the deeds hereinbefore mentioned from Henry P. Brown as Special Master, to Wil-

liam M. Barnum, and from William M. Barnum and wife to William M. Barnum and others and from William M. Barnum and others to your orator and by virtue of said conveyances are now owned by your orator in fee simple and have been continuously in the possession and occupancy of your orator ever since the conveyance thereof to your orator on January 13, 1910. So much of that parcel of land on the left bank of the Susquehanna River conveyed by Amer Kline and wife to Cary T. Hutchinson, owned by the McCall Company and mentioned in the aforesaid deed to the Sowege Company, as lies below the foot of Cully's Falls, was conveyed by the [23588] (page 24) same deeds to William M. Barnum, William M. Barnum and others and your orator and by virtue of said conveyance (and of the hereinbefore mentioned deed of flowage rights from Susquehanna Falls Power Company to your orator) is now owned by your orator in fee simple, subject only to the right granted by said deed to the Sowege Company to flow and flood water over and acquire for water-power purposes by the erection and operation of a dam or dams having a crest elevation of not exceeding 100 feet above mean sea level, and has been continuously in the possession and occupancy of your orator ever since the conveyance thereof to your orator on January 13, 1910.

11. The defendant has asserted a claim of a right, and recently announced an intention, to erect and operate near Conowingo in the State of Maryland in and across the Susquehanna River about five and one-half miles below the Pennsylvania state line a dam having a crest elevation of 103 feet above mean sea level. The erection of such a dam or of any dam in and across the Susquehanna River having a crest elevation exceeding 100 feet above mean sea level (or indeed of one having a crest elevation not exceeding 100 feet, especially if specially constructed to that end) necessarily and inevitably would flow back upon, encroach upon and interfere with your orator's water-power plant and

the tailrace thereof extending to the foot of Cully's Falls and would flood and overflow lands now [23589] (page 25) owned in fee simple and possessed by your orator on the left bank of the Susquehanna River extending from your orator's dam to the end of the tailrace thereof at the foot of Cully's Falls and also on Fry Island, Piney Island, Barclay Island and Grave Island in the Susquehanna River; and would likewise flood and overflow lands conveyed by the McCall Company and released by Knickerbocker Trust Company, Trustee, to the Sowego Company and the Susquehanna Company respectively by the deeds hereinbefore mentioned dated August 11, 1908, upon the express condition that the Sowego Company and the Susquehanna Company should not flow back upon, encroach upon or interfere with the water-power plant of the McCall Company near McCall's Ferry and the tailrace thereof extending to the foot of Cully's Falls, and would likewise flood and overflow land on the left bank of the Susquehanna River lying below the foot of Cully's Falls, conveyed by Amer Kline and wife to Cary T. Hutchinson, owned by your orator in fee simple, subject only to the right granted by the afore-said deed to the Sowego Company to flow and flood water over and acquire for water-power purposes by the erection and operation of a dam or dams having a crest elevation of not exceeding 100 feet above mean sea level. The erection of such a dam or of any dam in and across the Susquehanna River having a crest elevation exceeding 100 feet above mean sea level therefore inevitably would flood and overflow lands owned by your orator in fee simple and would violate the express conditions [23590] (page 26) upon which other lands were conveyed by the McCall Company to the Sowego Company and the Susquehanna Company respectively, the benefit of which conditions is now vested in and owned by your orator. On August 11, 1908, the construction of your orator's dam and the tailrace thereof had not been completed but the location and plan of construction of said dam and the tailrace thereof were open

and visible and well known especially to all the parties to the two deeds dated August 11, 1908, hereinbefore mentioned. Thereafter before October 14, 1910, the construction of your orator's dam and the tailrace thereof was completed at the same location and according to the same plan of construction as was contemplated and known on August 11, 1908. Since the completion of your orator's dam and the tailrace thereof and since October 14, 1910, your orator has made certain excavations in the tailrace of said dam for the purpose of improving the operation of said dam and the tailrace thereof. These excavations represent only a part of projected improvements to said tailrace which were suspended during the war and have not yet been completed. By reason of these excavations and improvements already made the consequences to your orator of any flowing back upon, encroachment upon or interference with the tailrace of your orator's dam would be more serious in loss of power at your orator's dam than they would have been if said excavation and improvements had not been made. These consequences would be still more serious if the projected improvements are completed. The [23591] (page 27) excavations and improvements already made have not however in any way changed, nor will the completion of the projected improvements change, the location of the tailrace of your orator's dam. The fact that the tailrace of your orator's dam would be flowed back upon, encroached upon and interfered with by the erection and operation of any dam or dams having a crest elevation exceeding 100 feet above mean sea level is not due to, dependent upon or in any way affected by the excavations and improvements, made or projected, in the tailrace of your orator's dam. If said excavations and improvements had never been begun the erection of any dam or dams having a crest elevation exceeding 100 feet above mean sea level would flow back upon, encroach upon and interfere with the tailrace of your orator's dam in the same way and at the same place, viz., at and above the foot of Cully's Falls, though not to the

same extent or with the same consequences as to loss of power at the dam, as would now result since said excavations and improvements have been begun. The erection and operation of any such dam would always so flow back upon, encroach upon and interfere with the tailrace of your orator's dam at those seasons of every year when the natural elevation and rate of flow of the waters of the Susquehanna River is not, as compared with other seasons, high.

12. So far as your orator knows or has heard, the only basis asserted by the defendant for its claim of a right to erect a dam having a crest elevation of 103 feet [23592] (page 28) above mean sea level is a certain unrecorded agreement dated February 20, 1908, to which certain stockholders of the McCall Company but neither the McCall Company nor Knickerbocker Trust Company, Trustee, were parties. Your orator is advised that the defendant's construction of this unrecorded agreement is in fact and in law a misconstruction thereof but that the construction and terms of said unrecorded agreement are for obvious reasons wholly irrelevant and immaterial now and cannot change the construction, operation or effect of the two deeds of August 11, 1908, to the Sowego Company and the Susquehanna Company respectively, or of the deeds from Henry P. Brown, as Special Master, to William M. Barnum, from William M. Barnum and wife to William M. Barnum and others, and from William M. Barnum and others to your orator under which your orator now holds and owns its property and rights, including especially its dam and the tailrace thereof.

13. Several months ago the defendant made an application, which is now pending, to the Federal Power Commission for a license to authorize it, among other things, to erect a dam in and across the Susquehanna River near Conowingo having a crest elevation of 103 feet above mean sea level. Later the defendant made an application, which

is now pending, for certain authority from the Public Service Commission of Maryland and in exhibits filed with said application indicated an intention to erect a dam having a crest [23593] (page 29) elevation of 103 feet above mean sea level. Your orator promptly reminded the defendant (What the defendant long before making either of said applications had been told by your orator) that the erection of such a dam would directly interfere with and encroach upon your orator's plant by flowing back the water of the river upon the tailrace of your orator's dam at and above the foot of Cully's Falls, that this would be both an invasion of your orator's property rights and also a breach of express conditions upon which a large part of the property of the defendant and corporations allied with it is now held and that if the defendant did not abandon its apparent intention to erect such a dam your orator would promptly and in due course take appropriate legal steps to protect its rights. A conference was had on February 4, 1925, between representatives of your orator and of the defendant and interests associated with the defendant, including the Philadelphia Electric Company, which through one or more links of stock ownership and through financial and operating contracts or arrangements is to be a dominant factor in the control of the defendant, its properties and operations. At this conference the representatives of the defendant and the interests associated with the defendant stated that the defendant and the interests associated with it would and did abandon any intention (though not a claim of right) to erect a dam having a crest elevation of more than 100 feet. This statement removed all threat of invasion of your orator's rights [23594] (page 30) and all need or opportunity to protect them. After said conference the defendant filed with the Public Service Commission of Maryland a statement, of which it sent your orator a copy, which was an inadequate and, as subsequent events indicate, evasive statement of the understanding reached at said conference. To said statement

your orator made prompt written reply dated February 11, 1925, to the defendant fully setting forth your orator's position and your orator's understanding of the defendant's position as stated at said conference. To your orator's letter of February 11, 1925, the defendant has never made direct reply. More than six weeks later your orator learned of evasive statements made before the Public Service Commission of Pennsylvania on behalf of interests associated with the defendant. Whereupon your orator wrote again to the defendant and also to the Philadelphia Electric Company and to your orator's surprise some days later received a letter dated April 7, 1925, from the Philadelphia Electric Company, undertaking on behalf of the defendant virtually to repudiate the statements made on behalf of the defendant at the conference on February 4, 1925.

14. After said conference on February 4, 1925, the defendant filed with the Public Service Commission of Maryland an amended application and amended exhibits which do not affirmatively indicate an intention to erect a dam having a crest elevation exceeding 100 feet above mean sea level. The defendant made no such amendments to its [23595] (page 31) application pending before the Federal Power Commission. There is also pending before the Public Service Commission of Pennsylvania on behalf of interests associated with the defendant, including the Philadelphia Electric Company, an application in connection with which were filed engineering plans and estimates that contemplated the erection of a dam having a crest elevation of 103 feet above mean sea level. Copies of a letter to the Public Service Commission of Maryland from your orator's counsel dated February 4, 1925, a statement filed by the defendant with the Public Service Commission of Maryland on February 5, 1925, and letters from the defendant to your orator dated February 5, 1925, from your orator to the defendant dated February 11, 1925, and from your orator to the Public Service Commission of Pennsyl-